

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Harry A. Koppel)

Name of Respondent(s))

Shearson Lehman Hutton, Inc.)

Case No. 89-02929

Heard before the Arbitration Panel:

Arthur J. Leibell, Esq.
Jack C. Aycock
Harry Polansky

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CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on October 19, 1989. Claimant, Harry Koppel ("Koppel"), alleged that Respondent, Shearson Lehman Hutton, Inc., ("Shearson"), was liable for violating Sections 517.12 and 517.211 of the Florida Statutes. Claimant alleged that certain individuals who solicited or executed Claimant's orders to buy or sell options and other securities were not registered with the Florida Division of Securities, the Office of Comptroller, Department of Banking and Finance as licensed securities brokers.

In a Statement of Answer filed with the NASD, Inc. on January 5, 1990, Respondent alleged that: it is permissible for unregistered persons to accept unsolicited orders from customers where such persons are appropriately supervised; the employees in the office where Claimant maintained his account were properly supervised; Respondent complied with all applicable rules, laws, and regulations; all of Claimant's transactions were unsolicited; and the individuals who took Claimant's orders performed merely clerical or ministerial functions and were not required to be registered.

RELIEF REQUESTED

Claimant requested damages in the amount of \$750,000.00 plus interest and attorney's fees.

Respondent requested dismissal of the claim plus costs and attorney's fees.

AWARD

On September 18 and 19, 1990, March 6 and 7, 1991, in Fort Lauderdale, Florida, during a hearing lasting nine (9) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, on October 18, 1989 and signed by Stephen J. Keating on behalf of Respondent, on January 3, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
2. Respondent, Shearson, is found liable and shall pay to the Claimant the amount of \$75,651.00 inclusive of interest.
3. Respondent, Shearson, is also found liable and shall pay to the Claimant the further amount of \$33,082.00 for attorney's fees pursuant to Section 517.211, Florida Statutes.
4. Claimant's request for costs is denied.
5. Respondent's requests for attorney's fees and costs are denied.

FORUM FEES

1. Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$9,000.00 (9 sessions x \$1,000.00 per session). Respondent, Shearson is hereby assessed \$9,000.00, of which \$1,750.00 shall be paid directly to the Claimant as a refund of the filing fees previously deposited by the Claimant (\$1,000.00 representing the fee paid for the postponement which was denied and \$750.00 representing the initial filing fee less the \$250.00 non-refundable portion). Respondent, Shearson, shall pay to the National Association of Securities Dealers, Inc. the balance of \$7,250.00.

2. Respondent Shearson, is assessed \$17.50 for copying costs.
3. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

Fees are payable to the National Association of Securities Dealers, Inc.

OTHER ISSUES

Concurring Arbitrator(s) Signature

/s/
Arthur J. Leibell, Esq.

/s/
Harry Polansky

/s/
Jack C. Aycock

Date of Decision: April 3, 1991